

**THORPE
NORTH &
WESTERN LLP.**
SINCE 1979
THE TEAM APPROACH TO PREMIER PERFORMANCE ©

INTELLECTUAL PROPERTY LAW

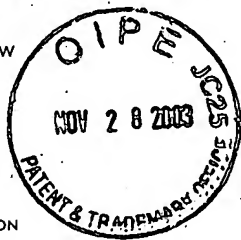
PATENTS, TRADEMARKS,

COPYRIGHTS, UNFAIR

COMPETITION, TRADE SECRETS,

LITIGATION, DISPUTE RESOLUTION

AND RELATED MATTERS



SALT LAKE AREA OFFICE
8180 SOUTH 700 EAST, SUITE 200
SANDY, UTAH 84070-0562
801.566.6633
801.566.0750 FAX
PATLAW@TNW.COM
WWW.TNW.COM

U.S. MAILING ADDRESS
P.O. Box 1219
SANDY, UTAH 84091-1219

LAS VEGAS AREA OFFICE
OF COUNSEL: NEIL J. BELLER †
7408 WEST SAHARA
LAS VEGAS, NEVADA 89117
702.368.7767
† ADMITTED IN NEVADA

VAUGHN W. NORTH
M. WAYNE WESTERN
GARRON M. HOBSON
PETER M. DE JONGE
CLIFTON W. THOMPSON
STEVE M. PERRY
WEILI CHENG, PH.D.
DAVID R. MCKINNEY, PE.
GARY P. OAKESON
DAVID W. OSBORNE
DAVID L. STOTT
JASON R. JONES
PAUL C. OESTREICH, M.S.
ERIK S. ERICKSEN, M.S.
REGISTERED PATENT ATTORNEYS
NATHAN S. WINESETT
OF COUNSEL
BRYAN K. HANKS
PATENT AGENT
ALEX HAYMOND, B.S. EE
TODD B. ALDER, PH.D.
JONATHAN M. BENNS, PH.D.
AARON M. SMITH, B.S. EE
WILLIAM T. RALSTON, PH.D. EE
TECHNICAL CONSULTANTS
CALVIN E. THORPE
(1938-1999)

November 25, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 10/630,648 filed July 30, 2003
Applicant: D. Keith Wilson, et al.
Title: OPEN ACCESS DATA TRANSPORT SYSTEM AND METHOD
Group Art Unit:
Attorney Docket No. 20727.NP

Sir/Madam:

Transmitted herewith for filing and pursuant to 37 C.F.R. §§ 1.56 and 1.97 is an Information Disclosure Statement.

Enclosed also are the following designated documents, as required under 37 C.F.R. §§ 1.97 and 1.98:

- ☒ Form PTO-1449 list of 5 references submitted for consideration.
- ☒ Legible copies of the listed references or their relevant portions.
- ☐ All English translations of each non-English reference, if any, within the possession, custody, control or availability of anyone designated in 37 C.F.R. § 1.56(c) (see 37 C.F.R. § 1.98(c)).

The following are included within the Information Disclosure Statement if applicable and as required under 37 C.F.R. § 1.98:

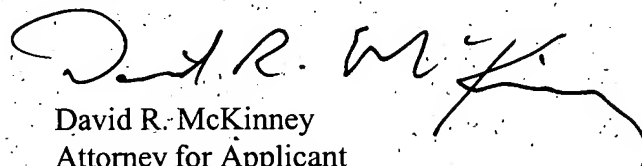
- ☐ Concise explanation of relevance of each reference not in English and unaccompanied by an English translation.
- ☐ Statement that certain listed references not enclosed are substantially cumulative of an enclosed reference.
- ☐ Statement that certain listed references not enclosed were previously cited by or submitted to the Office in the identified prior application which is relied upon for an earlier filing date under 35 U.S.C. § 120.

In order to secure consideration of the items designated above, one or more of the following, if required, is also enclosed:

- ☐ Statement under 37 C.F.R. § 1.97(e)(1) or (2).
- ☐ Check No. _____ in the amount of \$0.00 (amount in § 1.17(p)) constituting the submission fee set forth in 37 C.F.R. § 1.17(p).

In the event that 37 C.F.R. § 1.97(c) applies and the Examiner is not satisfied that the Statement meets the requirements of 37 C.F.R. § 1.97(e), or in any other event remediable by a fee, please credit any over payment or charge any additional fees to Deposit Account No. 20-0100 of the undersigned.

Respectfully submitted,



David R. McKinney
Attorney for Applicant
Registration No. 42,868

THORPE NORTH & WESTERN, LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633



IN THE UNITED STATES PATENT & TRADEMARKS OFFICE

ART UNIT:

EXAMINER:

APPLICANT: D. Keith Wilson, et al.

SERIAL NO.: 10/630,648

FILED: 7/30/2003

CONFRM. NO.:

FOR: OPEN ACCESS DATA TRANSPORT
SYSTEM AND METHOD

CERTIFICATE OF MAILING
UNDER 37 C.F.R. § 1.8

DATE OF DEPOSIT: 11-25-03

I hereby certify that this paper or fee (along with any paper or fee referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


David R. McKinney

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). Applicant respectfully submits that this Information Disclosure Statement is filed pursuant to:

☒ 37 C.F.R. § 1.97 (b)(1) or (3), within three months of the filing date of the application, or before a first office action on the merits, whichever occurs last;

☐ 37 C.F.R. § 1.97 (c), after a first office action on the merits, but before a Final Office Action or a Notice of Allowance, whichever occurs first, and is accompanied by either 1) a statement in accordance with 37 C.F.R. § 1.97(e), or 2) the fee set forth in § 1.17(p); or

☐ 37 C.F.R. § 1.97 (d), after a Final Office Action or Notice of Allowance, whichever occurs first, but on or before payment of the issue fee, and is accompanied by both 1) a statement in accordance with 37 C.F.R. § 1.97(e), and 2) the fee set forth in § 1.17(p).

While no representation is made that any of these references may be "prior art" within the meaning of that term in accordance with 35 U.S.C. §§ 102 or 103, the enclosed list of references is disclosed so as to comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the references listed, together with any other references which may have been previously submitted or listed, are the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

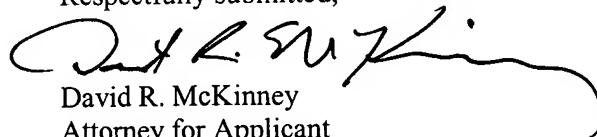
In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each listed reference (or relevant portion thereof) which was not previously submitted to, or cited by, the Patent Office is also enclosed.

For all listed references that are not either in the English language, or accompanied by a translation into English, a concise explanation of relevance as required under 37 C.F.R. § 1.98(a)(3) is enclosed attached to each.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or to credit any overpayment to Deposit Account No. 20-0100.


Dated this 25th day of November, 2003.

Respectfully submitted,



David R. McKinney
Attorney for Applicant
Registration No. 42,868

THORPE NORTH & WESTERN, LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633

PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE 	ATTY. DOCKET NO. 20727.NP		SERIAL NO. 10/630,648
	APPLICANT D. Keith Wilson, et al.		
	FILING DATE July 30, 2003	GROUP _____	

LIST OF PRIOR ART CITED BY APPLICANT
U.S. PATENT DOCUMENTS

EXAMINER INITIALS		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A1						
	A2						
	A3						
	A4						
	A5						
	A6						
	A7						
	A8						
	A9						
	A10						
	A11						
	A12						

OTHER PRIOR ART (Including Author, Title, Pertinent Pages, Etc.)

	A13	Lessig, Lawrence, "Tragedy of the Cyber Commons", <i>Scientific American</i> , April 2002.
	A14	Isenberg, David, "Rise of the Stupid Network", <i>Entropy Gradient Reversals</i> , ca. Feb/Mar. 1998.
	A15	Rendall, David, et al; "Putting Fiber Onto the Agenda for Public Policy" Research Brief; March 5, 2001.
	A16	Kamman, Steve, et al; "Battleships 2 - A Revolution Postponed, Not Cancelled", <i>CIBC World Markets</i> ; April 3, 2002.
	A17	Beard, T. Randolph, et al; "An Economic Exploration into the Future of Industry Structure for the 'Last Mile' in Local Telecommunications Markets"; <i>Phoenix Center Policy Paper Number 12</i> ; November 2001.
EXAMINER		DATE CONSIDERED
<p>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication with applicant.</p>		